

Application Number 10/828,453
Responsive to Office Action mailed November 9, 2006

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REMARKS

This is responsive to the Final Office Action dated November 9, 2006. Applicant has not amended any claims. Claims 1-26 are pending.

Summary of Examiner Interview

On January 11, 2007, Applicant's attorneys of record, Kent J. Sieffert and Jessica H. Kwak, conducted a telephone interview with Examiner Nordmeyer. During the interview Mr. Sieffert, Ms. Kwak, and Examiner Nordmeyer discussed column 6, lines 3-11 of the Mocilnikar et al. reference. Applicant's representatives pointed out language found at column 6, lines 3-11 of Mocilnikar et al. states that both the varnish layer 30 and pattern destrux varnish layer 38 are specifically described as being clear, which allows the printing in a layer 40 to be visible. Applicant's representatives pointed out that this is the opposite purpose of the mask layer of the claimed invention.

During the interview, Mr. Sieffert and Ms. Kwak took the position that, in reliance on at least column 6, lines 3-11 of Mocilnikar et al., the Office Action erroneously stated that, "Mocilnikar et al. . . . does not state that the varnish is a clear layer" and "even if the varnish of Mocilnikar et al. is clear, it does not mean that the layer underneath the mask would not be illegible." (Office Action at page 4.)

In addition, Applicant's representatives pointed out that the layers of the Mocilnikar et al. reference (U.S. 5,346,259) referenced in the Office Action mailed November 9, 2006 do not correspond to the figures being discussed. In particular, the Office Action asserted that the varnish layer 30 shown in FIG. 3 of Mocilnikar et al. was a mask (Office Action at page 3), but relied on a description of a different layer, a pattern destrux varnish layer 38, as describing the varnish layer 30.

Rejection under 35 U.S.C. § 103(a)

In the Office Action, claims 1-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright et al. (U.S. 6,416,857) in view of Mocilnikar et al. Applicant respectfully traverses the rejection because the applied references fail to disclose or suggest the

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inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

For example, the applied references lack any teaching that would have suggested a mask applied to a tamper indicating device, as recited by Applicant's independent claims 1, 6, 12, 16, and 21. Dependent claims 2-5, 7-11, 13-15, 17-20, and 22-26 depend upon claims 1, 6, 12, 16, and 21, respectively, and thus include the mask as an element. As the Office Action recognized, Wright et al. fails to disclose a mask applied to a tamper indicating device. (Office Action at page 3.) The Examiner looked to Mocilnikar et al. to cure this deficiency in Wright et al. and alleged that Mocilnikar et al. teaches "a mask applied to the tamper indicating device (Figure 3, #30) . . ." (Office Action at page 3.) Applicant respectfully disagrees with the Examiner's characterization of element 30 of Mocilnikar et al. as a mask.

As Applicant's disclosure explains, a mask can be almost any printing or application or change to a top surface of the tamper indicating device that causes secured information to be illegible through the top surface of the tamper indicating device. (Applicant's disclosure at paragraph 45.) Furthermore, claims 6, 12, and 21 explicitly recite that the mask obscures secured information. In contrast, Mocilnikar et al. refers to element 30 as a varnish 30, which is described as a clear layer (col. 6, ll. 3-10) specifically so that printing in layer 40 is visible via a viewer (col. 5 ll. 10-15). Mocilnikar does not teach or suggest anything but a clear varnish 30, and in fact, touts the clear varnish 30 as a "significant feature" of its invention. (Col. 6, ll. 3-6.) Mocilnikar et al. specifically states that:

One of the significant features of the present invention is that matt varnish 30, PET layer 32, acrylic adhesive layer 36, patterned destrux varnish layer 38, and leveling primer layer 42 are clear. This allows the printing which is present in "GENU-GRAPHIC" layer 40 to be visible against the background of adhesive layer 44. Additionally, the leveling primer layer 42 deadens the adhesive layer 44 in order to permit printing the "GENU-GRAPHIC" layer 40.

The clear varnish 30 taught by Mocilnikar et al. does not in any way cause secured information to be illegible through the top surface of the anti-theft label. In fact, as evidenced by the passage of Mocilnikar et al. provided above, the varnish layer 30 of Mocilnikar provides the opposite function in that it allows printing present in a layer 40 to be visible. The Office Action stated that, "even if the varnish of Mocilnikar et al. is clear, it does not mean that the layer

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underneath the mask would not be illegible." (Office Action at page 4.) Applicant respectfully disagrees. Even if the information underneath varnish layer 30 of the Mocilnikar et al. reference is considered to be illegible, it is not illegible because of varnish layer 30, but because of the nature of the "authentication pattern 16" taught by Mocilnikar et al. Mocilnikar et al. teaches that "the authentication pattern 16 is visible only when authentication viewer 14 is placed over label 12." (Col. 4, ll. 33-36.) Thus, when the viewer is placed over the varnish layer 30, the varnish layer 30 does nothing to block access to the authentication pattern. In contrast, a mask may block the path between secured information and a viewer or detector of secured information. (Applicant's disclosure at paragraph 44.) Mocilnikar et al. in no way teaches or suggest a mask that blocks a path between secured information and a viewer or detector of secured information.

Neither Wright et al. nor Mocilnikar et al. teach or suggest a mask applied to a tamper indicating device, as recited by Applicant's independent claims 1, 6, 12, 16, and 21. For at least the foregoing reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicant's claims 1-26 under 35 U.S.C. § 103(a). Withdrawal of this rejection is requested.

CONCLUSION

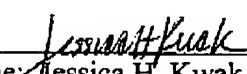
All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

February 9, 2007

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